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## PART - VII

### GOVERNMENT OF MEGHALAYA ORDERS BY THE GOVERNOR

#### NOTIFICATION

The 28th February, 2007

**No.LL(B).9/2006/160**—The following Act passed by the Parliament and assent by the President of India and published in the Gazette of India Extra-Ordinary, Part II, Section I on the date indicated below is hereby republished for general information.

Sl. No.	Name of Act	Act No. & year	Date of Publication in the Gazette of India.
1.	The Wild Life (Protection) Amendment Act, 2006.	Act No. 39 of 2006	4th September, 2006.
2.	The Protection of Human Rights (Amendment) Act, 2006.	Act No. 43 of 2006	12th September, 2006
3.	The Banking Companies Acquisition Act	Act No. 45 of 2006	14th September, 2006

#### THE WILD LIFE (PROTECTION) AMENDMENT ACT, 2006

(AS PASSED BY THE HOUSES OF PARLIAMENT)

AN

ACT

*further to amend the Wild Life (Protection) Act, 1972.*

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Wild Life (Protection) Amendment Act, 2006. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

53 of 1972.

2. After Chapter IV A of the Wild Life (Protection) Act, 1972 (hereinafter referred to as the principal Act), the following Chapters shall be inserted, namely.— Insertion of new Chapters IVB and IVC.

**‘CHAPTER IV B****NATIONAL TIGER CONSERVATION AUTHORITY**

Definitions. 38K. In this Chapter,—

(a) "National Tiger Conservation Authority" means the Tiger Conservation Authority constituted under Section 38L;

(b) "Steering Committee" means the Committee constituted under section 38U;

(c) "Tiger Conservation Foundation" means the foundation established under Section 38X;

(d) "tiger reserve State" means a State having tiger reserve;

(e) "tiger reserve" means the areas notified as such under Section 38V.

Constitution of  
National Tiger  
Conservation  
Authority.

38L. (1) The Central Government shall constitute a body to be known as the National Tiger Conservation Authority (hereinafter in this Chapter referred to as the, Tiger Conservation Authority), to exercise the powers conferred on, and to perform the functions assigned to it under this Act.

(2) The Tiger Conservation Authority shall consist of the following members, namely:—

(a) the Minister in charge of the Ministry of Environment and Forests— Chairperson;

(b) the Minister of State in the Ministry of Environment and Forests— Vice-Chairperson;

(c) three members of Parliament of whom two shall be elected by the House of the People and one by the Council of States;

(d) eight experts or professionals having prescribed qualifications and experience in conservation of wild life and welfare of people living in tiger reserve out of which at least two shall be from the field of tribal development;

(e) Secretary, Ministry of Environment and Forests;

(f) Director General of Forests and Special Secretary, Ministry of Environment and Forests;

(g) Director, Wild Life Preservation, Ministry of Environment and Forests;

(h) six Chief Wild Life Wardens from the tiger reserve States in rotation for three years;

(i) an officer not below the rank of Joint Secretary and Legislative Counsel from the Ministry of Law and Justice;

- (j) Secretary, Ministry of Tribal Affairs;
- (k) Secretary, Ministry of Social Justice and Empowerment;
- (l) Chairperson, National Commission for the Scheduled Tribes;
- (m) Chairperson, National Commission for the Scheduled Castes;
- (n) Secretary, Ministry of Panchayati Raj;
- (o) Inspector-General of Forests or an officer of the equivalent rank having at least ten years experience in a tiger reserve or wildlife management, who shall be the Member-Secretary, to be notified by the Central Government, in the Official Gazette.

(3) It is hereby declared that the office of member of the Tiger Conservation Authority shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament.

38M. (1) A member nominated under clause (d) of sub-section (2) of Section 38L shall hold office for such period not exceeding three years:

Terms of Officer  
and conditions of  
service of members

Provided that a member may, by writing under his hand addressed to the Central Government, resign from his office.

(2) The Central Government shall remove a member referred to in clause (d) of sub-section (2) of Section 38L, from office if he—

- (a) is, or at any time has been, adjudicated as insolvent;
- (b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude;
- (c) is of unsound mind and stands so declared by a competent court;
- (d) refuses to act or becomes incapable of acting;
- (e) is, without obtaining leave of absence from the Tiger Conservation Authority, absent from three consecutive meetings of the said Authority; or
- (f) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest:

Provided that no member shall be removed under this sub-section unless he has been given a reasonable opportunity of being heard in the matter.

(3) Any vacancy in the office of a member shall be filled by fresh appointment and such member shall continue for the remainder of the term of the member in whose place he is appointed.

(4) The salaries and allowances and other conditions of appointment of the members of the Tiger Conservation Authority shall be such as may be prescribed.

(5) No act or proceeding of the Tiger Conservation Authority shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Tiger Conservation Authority.

Officer and employees of Tiger Conservation Authority.

38N. (1) The Tiger Conservation Authority may, with the previous sanction of the Central Government, appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act:

Provided that the officers and employees holding office under the Directorate of Project Tiger and dealing with Project Tiger immediately before the date of constitution of the Tiger Conservation Authority shall continue to hold office in the said Authority by the same tenure and upon the same terms and conditions of service or until the expiry of the period of six months from that date if such employee opts not to be the employee of that Authority.

(2) The terms and conditions of service of the officers and other employees of the Tiger Conservation Authority shall be such as may be prescribed.

Powers and functions of Tiger Conservation Authority.

38-O. (1) The Tiger Conservation Authority shall have the following powers and perform the following functions, namely:—

(a) to approve the Tiger Conservation Plan prepared by the State Government under sub-section (3) of Section 38V of this Act;

(b) evaluate and assess various aspects of sustainable ecology and disallow any ecologically unsustainable land use such as, mining, industry and other projects within the tiger reserves;

(c) lay down normative standards for tourism activities and guidelines for project tiger from time to time for tiger conservation in the buffer and core area of tiger reserves and ensure their due compliance;

(d) provide for management focus and measures for addressing conflicts of men and wild animals and to emphasis on co-existence in forest areas outside the National Parks, sanctuaries or tiger reserve, in the working plan code;

(e) provide information on protection measures including future conservation plan, estimation of population of tiger and its natural prey species, status of habitats, disease surveillance, mortality survey, patrolling, reports on untoward happenings and such other management aspects as it may deem fit including future plan conservation;

(f) approve, co-ordinate research and monitoring on tiger, co-predators, prey, habitat, related ecological and socio-economic parameters and their evaluation;

(g) ensure that the tiger reserves and areas linking one protected area or tiger reserve with another protected area or tiger reserve

are not diverted for ecologically unsustainable uses, except in public interest and with the approval of the National Board for Wild Life and on the advice of the Tiger Conservation Authority;

(h) facilitate and support the tiger reserve management in the State for biodiversity conservation initiatives through eco-development and people's participation as per approved management plans and to support similar initiatives in adjoining areas consistent with the Central and State laws;

(i) ensure critical support including scientific, information technology and legal support for better implementation of the tiger conservation plan;

(j) facilitate ongoing capacity building programme for skill development of officers and staff of tiger reserves; and

(k) perform such other functions as may be necessary to carry out the purposes of this Act with regard to conservation of tigers and their habitat.

(2) The Tiger Conservation Authority may, in the exercise of its powers and performance of its functions under this Chapter, issue directions in writing to any person, officer or authority for the protection of tiger or tiger reserves and such person, officer or authority shall be bound to comply with the directions:

Provided that no such direction shall interfere with or affect the rights of local people particularly the Scheduled Tribes.

Procedure to be regulated by Tiger Conservation Authority.

38P. (1) The Tiger Conservation Authority shall meet at such time and at such place as the Chairperson may think fit.

(2) The Chairperson or in his absence the Vice-Chairperson shall preside over the meetings of the Tiger Conservation Authority.

(3) The Tiger Conservation Authority shall regulate its own procedure.

(4) All orders and decisions of the Tiger Conservation Authority shall be authenticated by the Member-Secretary or any other officer of the said Authority duly authorised by the Member-Secretary in this behalf.

Grants and loans to Tiger Conservation Authority and constitution of Fund.

38Q. (1) The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Tiger Conservation Authority grants and loans of such sums of money as that Government may consider necessary.

(2) There shall be constituted a Fund to be called the Tiger Conservation Authority Fund and there shall be credited thereto—

(i) any grants and loans made to the Tiger Conservation Authority by the Central Government;

(ii) all fees and charges received by the Tiger Conservation Authority under this Act; and

(iii) all sums received by the Authority from such other sources as may be decided upon by the Central Government.

(3) The Fund referred to in sub-section (2) shall be applied for meeting salary, allowances and other remuneration of the members, officers and other employees of the Tiger Conservation Authority and the expenses of the Tiger Conservation Authority incurred in the discharge of its functions under this Chapter.

38R. (1) The Tiger Conservation Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts and audit of Tiger Conservation Authority.

(2) The accounts of the Tiger Conservation Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Tiger Conservation Authority to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Tiger Conservation Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the Tiger Conservation Authority.

(4) The accounts of the Tiger Conservation Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon, shall be forwarded annually to the Central Government by the Tiger Conservation Authority.

38S. The Tiger Conservation Authority shall prepare in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government.

Annual report of Tiger Conservation Authority.

38T. The Central Government shall cause the annual report together with a memorandum of action taken on the recommendations contained therein, in so far as they relate to the Central Government, and the reasons for the non-acceptance, if any, of any of such recommendations, and the audit report to be laid, as soon as may be after the reports are received, before each House of Parliament.

Annual report and audit report to be laid before Parliament.

38U. (1) The State Government may constitute a Steering Committee for ensuring co-ordination, monitoring, protection and conservation of tiger, co-predators and prey animals within the tiger range States.

Constitution of Steering Committee.

(2) The Steering Committee shall consists of—

(a) the Chief Minister — Chairperson;

(b) the Minister-in-charge of Wild Life — Vice-Chairperson;

(c) such number of official members not exceeding five including at least two Field Directors of tiger reserve or Director of National Park and one from the State Government's Departments dealing with tribal affairs;

(d) three experts or professionals having qualifications and experience in conservation of wild life of which at least one shall be from the field of tribal development;

(e) two members from the State's Tribal Advisory Council;

(f) one representative each from State Government's Departments dealing with Panchayati Raj and Social Justice and Empowerment;

(g) Chief Wild Life Warden of the State shall be the Member-Secretary, *ex officio*, to be notified by the State Government, in the Official Gazette.

Tiger Conservation  
Plan.

38V. (1) The State Government shall, on the recommendation of the Tiger Conservation Authority, notify an area as a tiger reserve.

(2) The provisions of sub-section (2) of Section 18, sub-sections (2), (3) and (4) of Section 27, Sections 30, 32 and clauses (b) and (c) of Section 33 of this Act shall, as far as may be, apply in relation to a tiger reserve as they apply in relation to a sanctuary.

(3) The State Government shall prepare a Tiger Conservation Plan including staff development and deployment plan for the proper management of each area referred to in sub-section (1), so as to ensure—

(a) protection of tiger reserve and providing site specific habitat inputs for a viable population of tigers, co-predators and prey animals without distorting the natural prey-predator ecological cycle in the habitat;

(b) ecologically compatible land uses in the tiger reserves and areas linking one protected area or tiger reserve with another for addressing the livelihood concerns of local people, so as to provide dispersal habitats and corridor for spill over population of wild animals from the designated core areas of tiger reserves or from tiger breeding habitats within other protected areas;

(c) the forestry operations of regular forest divisions and those adjoining tiger reserves are not incompatible with the needs of tiger conservation.

(4) Subject to the provisions contained in this Act, the State Government shall, while preparing a Tiger Conservation Plan, ensure the agricultural, livelihood, developmental and other interests of the people living in tiger bearing forests or a tiger reserve.

*Explanation.*— For the purposes of this section, the expression “tiger reserve” includes—

(i) core or critical tiger habitat areas of National Parks and sanctuaries, where it has been established, on the basis of scientific and objective criteria, that such areas are required to be kept as inviolate for the



purposes of tiger conservation, without affecting the rights of the Scheduled Tribes or such other forest dwellers, and notified as such by the State Government in consultation with an Expert Committee constituted for the purpose;

(ii) buffer or peripheral area consisting of the area peripheral to critical tiger habitat or core area, identified and established in accordance with the provisions contained in *Explanation (i)* above, where a lesser degree of habitat protection is required to ensure the integrity of the critical tiger habitat with adequate dispersal for tiger species, and which aim at promoting co-existence between wildlife and human activity with due recognition of the livelihood, developmental, social and cultural rights of the local people, wherein the limits of such areas are determined on the basis of scientific and objective criteria in consultation with the concerned Gram Sabha and an Expert Committee constituted for the purpose.

(5) Save as for voluntary relocation on mutually agreed terms and conditions, provided that such terms and conditions satisfy the requirements laid down in this sub-section, no Scheduled Tribes or other forest dwellers shall be resettled or have their rights adversely affected for the purpose of creating inviolate areas for tiger conservation unless—

(i) the process of recognition and determination of rights and acquisition of land or forest rights of the Scheduled Tribes and such other forest dwelling persons is complete;

(ii) the concerned agencies of the State Government, in exercise of their powers under this Act, establishes with the consent of the Scheduled Tribes and such other forestdwellers in the area, and in consultation with an ecological and social scientist familiar with the area, that the activities of the Scheduled Tribes and other forest dwellers or the impact of their presence upon wild animals is sufficient to cause irreversible damage and shall threaten the existence of tigers and their habitat;

(iii) the State Government, after obtaining the consent of the Scheduled Tribes and other forest dwellers inhabiting the area, and in consultation with an independent ecological and social scientist familiar with the area, has come to a conclusion that other reasonable options of co-existence, are not available;

(iv) resettlement or alternative package has been prepared providing for livelihood for the affected individuals and communities and fulfils the requirements given in the National Relief and Rehabilitation Policy;

(v) the informed consent of the Gram Sabha concerned, and of the persons affected, to the resettlement programme has been obtained; and

(vi) the facilities and land allocation at the resettlement location are provided under the said programme, otherwise their existing rights shall not be interfered with.

38W. (1) No alteration in the boundaries of a tiger reserve shall be made except on a recommendation of the Tiger Conservation Authority and the approval of the National Board for Wild Life.

Alteration and de-notification of tiger reserves.



(2) No State Government shall de-notify a tiger reserve, except in public interest with the approval of the Tiger Conservation Authority and the National Board for Wild Life.

38X. (1) The State Government shall establish a Tiger Conservation Foundation for tiger reserves within the State in order to facilitate and support their management for conservation of tiger and biodiversity and, to take initiatives in eco-development by involvement of people in such development process.

Establishment of  
Tiger Conservation  
Foundation.

(2) The Tiger Conservation Foundation shall, *inter alia*, have the following objectives:—

(a) to facilitate ecological, economic, social and cultural development in the tiger reserves;

(b) to promote eco-tourism with the involvement of local stake-holder communities and provide support to safeguard the natural environment in the tiger reserves;

(c) to facilitate the creation of, and or maintenance of, such assets as may be necessary for fulfilling the above said objectives;

(d) to solicit technical, financial, social, legal and other support required for the activities of the Foundation for achieving the above said objectives;

(e) to augment and mobilise financial resources including recycling of entry and such other fees received in a tiger reserve, to foster stake-holder development and eco-tourism;

(f) to support research, environmental education and training in the above related fields.

## CHAPTER IV C

### TIGER AND OTHER ENDANGERED SPECIES CRIME CONTROL BUREAU

38Y. The Central Government may, for the purposes of this Act, by order published in the Official Gazette, constitute a Tiger and other Endangered Species Crime Control Bureau to be known as the Wildlife Crime Control Bureau consisting of—

Constitution of  
Tiger and other  
Endangered Species  
Crime Control  
Bureau.

(a) the Director of Wildlife Preservation—Director *ex-officio*;

(b) the Inspector-General of Police—Additional Director;

(c) the Deputy Inspector-General of Police—Joint Director;

(d) the Deputy Inspector-General of Forests—Joint Director;

(e) the Additional Commissioner (Customs and Central Excise)—Joint Director; and

(f) such other officers as may be appointed from amongst the officers covered under Sections 3 and 4 of this Act.

Power and  
functions of Wildlife  
Crime Control  
Bureau.

38Z. (1) Subject to the provisions of this Act, the Wildlife Crime Control Bureau shall take measures with respect to –

(i) collect and collate intelligence related to organized wildlife crime activities and to disseminate the same to State and other enforcement agencies for immediate action so as to apprehend the criminals and to establish a centralised wildlife crime data bank;

(ii) co-ordination of actions by various officers, State Governments and other authorities in connection with the enforcement of the provisions of this Act, either directly or through regional and border units set up by the Bureau;

(iii) implementation of obligations under the various international Conventions and protocols that are in force at present or which may be ratified or acceded to by India in future;

(iv) assistance to concerned authorities in foreign countries and concerned international organisations to facilitate co-ordination and universal action for wildlife crime control;

(v) develop infrastructure and capacity building for scientific and professional investigation into wildlife crimes and assist State Governments to ensure success in prosecutions related to wildlife crimes;

(vi) advice the Government of India on issues relating to wildlife crimes having national and international ramifications, and suggest changes required in relevant policy and laws from time to time.

(2) The Wildlife Crime Control Bureau shall exercise—

(i) such powers as may be delegated to it under sub-section (1) of Section 5, sub-sections (1) and (8) of Section 50 and section 55 of this Act; and

(ii) such other powers as may be prescribed.”.

Amendment of  
Section 51.

3. In Section 51 of the principal Act, after sub-section (1B), the following sub-sections shall be inserted, namely:—

“(1C) Any person, who commits an offence in relation to the core area of a tiger reserve or where the offence relate to hunting in the tiger reserve or altering the boundaries of the tiger reserve, such offence shall be punishable on first conviction with imprisonment for a term which shall not be less than three years but may extend to seven years, and also with fine which shall not be less than fifty thousand rupees but may extend to two lakh rupees; and in the event of a second or subsequent conviction with imprisonment for

a term of not less than seven years and also with fine which shall not be less than five lakh rupees but may extend to fifty lakh rupees.

(ID) Whoever, abets any offence punishable under sub-section (IC) shall, if the act abetted is committed in consequence of the abetment, be punishable with the punishment provided for that offence.”.

4. In Section 55 of the principal Act, after clause (aa), the following clauses shall be inserted, namely:— Amendment of Section 55.

“(ab) Member-Secretary, Tiger Conservation Authority;  
or

(ac) Director of the concerned tiger reserve; or”.

5. In Section 59 of the principal Act, after the word, figures and letter “Chapter IV A”, the word, figures and letter “Chapter IV B” shall be inserted. Amendment of Section 59.

6. In Section 60 of the principal Act, in sub-section (5), after the word, figures and letter “Chapter IV A”, the word, figures and letter “Chapter IV B” shall be inserted. Amendment of Section 60.

7. In Section 63 of the principal Act, in sub-section (1), after clause (g), the following clauses shall be inserted, namely:— Amendment of Section 63.

“(gi) qualifications and experience of experts or professionals under clause (d) of sub-section (2) of Section 38-1;

(gii) the salaries and allowances and other conditions of appointment of the members under sub-section (4) of Section 38M;

(giii) the terms and conditions of service of the officers and other employees of the Tiger Conservation Authority under sub-section (2) of Section 38N;

(giv) the form in which the annual statement of accounts of Tiger Conservation Authority shall be prepared under sub-section (1) of Section 38R;

(gv) the form in which and the time at which the annual report of Tiger Conservation Authority shall be prepared under Section 38S;

(gvi) other powers of the Wild Life Crime Control Bureau under clause (ii) of sub-section (2) of Section 38Z.”.

## THE PROTECTION OF HUMAN RIGHTS (AMENDMENT)

**Act 2006**

**(AS PASSED BY THE HOUSES OF PARLIAMENT)**

**AN**

**ACT**

*further to amend the Protection of Human Rights Act, 1993.*

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Protection of Human Rights (Amendment) Act, 2006. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

10 of 1994. 2. In Section 2 of the Protection of Human Rights Act, 1993 (hereinafter referred to as the principal Act), in sub-section (1),— Amendment of Section 2.

(a) for clause (f), the following clause shall be substituted, namely:—

‘(f) “International Covenants” means the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on the 16th December, 1966 and such other Covenant or Convention adopted by the General Assembly of the United Nations as the Central Government may, by notification, specify;’;

(b) for clause (g), the following clause shall be substituted, namely:—

‘(g) “Member” means a Member of the Commission or of the State Commission, as the case may be;’;

(c) for clause (i), the following clauses shall be substituted, namely:—

‘(i) “National Commission for the Scheduled Castes” means the National Commission for the Scheduled Castes referred to in article 338 of the Constitution;

(ia) “National Commission for the Scheduled Tribes” means the National Commission for the Scheduled Tribes referred to in article 338 A of the Constitution;’.

3. In Section 3 of the principal Act,— Amendment of Section 3.

(a) in sub-section (3), for the words “the National Commission for the Scheduled Castes and Scheduled Tribes”, the words “the National Commission for the Scheduled Castes, the National Commission for the Scheduled Tribes” shall be substituted;

(b) in sub-section (4), for the words “as it may delegate to him”, the brackets, words, figures and letter “(except judicial functions and the power to make regulations under Section 40B) as may be delegated to him by the Commission or the Chairperson, as the case may be” shall be substituted.

Amendment of  
Section 4.

4. In Section 4 of the principal Act,—

(a) in sub-section (1), for the words “other Members”, the words “the Members” shall be substituted;

(b) in sub-section (2), for the words “vacancy in the Committee”, the words, brackets and figure “vacancy of any member in the Committee referred to in the first proviso to sub-section (1)” shall be substituted.

Substitution of new  
Section for  
Section 5.

5. For Section 5 of the principal Act, the following section shall be substituted, namely:—

Resignation and  
removal of  
Chair-person and  
Members.

“5. (1) The Chairperson or any Member may, by notice in writing under his hand addressed to the President of India, resign his office.

(2) Subject to the provisions of sub-section (3), the Chairperson or any Member shall only be removed from his office by order of the President of India on the ground of proved misbehaviour or incapacity after the Supreme Court, on reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or the Member, as the case may be, ought on any such ground to be removed.

(3) Notwithstanding anything in sub-section (2), the President may, by order, remove from office the Chairperson or any Member if the Chairperson or such Member, as the case may be,—

(a) is adjudged an insolvent; or

(b) engages during his term of office in any paid employment outside the duties of his office; or

(c) is unfit to continue in office by reason of infirmity of mind or body; or

(d) is of unsound mind and stands so declared by a competent court; or

(e) is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude.”.

Substitution of new  
Section for  
Section 6.

6. For Section 6 of the principal Act, the following section shall be substituted, namely:—

Term of office of  
Chairperson and  
Members.

“6. (1) A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier.

(2) A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of five years:

Provided that no Member shall hold office after he has attained the age of seventy years.

(3) On ceasing to hold office, a Chairperson or a Member shall be ineligible for further employment under the Government of India or under the Government of any State.”.

7. For Section 8 of the principal Act, the following section shall be substituted, namely:—

Substitution of new Section for Section 8.

“8. The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed:

Terms and conditions of service of Chairperson and Members

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member shall be varied to his disadvantage after his appointment.”.

8. In Section 10 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment of Section 10.

“(2) Subject to the provisions of this Act and the rules made thereunder, the Commission shall have the power to lay down by regulations its own procedure.”.

9. In Section 12 of the principal Act,—

Amendment of Section 12.

(a) in clause (a), after the words “or any person on his behalf”, the words “or on a direction or order of any court” shall be inserted;

(b) for clause (c), the following clause shall be substituted, namely:—

“(c) visit, notwithstanding anything contained in any other law for the time being in force, any jail or other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, for the study of the living conditions of the inmates thereof and make recommendations thereon to the Government;”.

10. In Section 13 of the principal Act, after sub-section (5), the following sub-sections shall be inserted, namely:—

Amendment of Section 13.

“(6) Where the Commission considers it necessary or expedient so to do, it may, by order, transfer any complaint filed or pending before it to the State Commission of the State from which the complaint arises, for disposal in accordance with the provisions of this Act:

Provided that no such complaint shall be transferred unless the same is one respecting which the State Commission has jurisdiction to entertain the same.

(7) Every complaint transferred under sub-section (6) shall be dealt with and disposed of by the State Commission as if it were a complaint initially filed before it.”.

Substitution of new  
Section for  
Section 18.

11. For Section 18 of the principal Act, the following section shall be substituted, namely:—

Steps during and  
after inquiry.

“18. The Commission may take any of the following steps during or upon the completion of an inquiry held under this Act, namely:—

(a) where the inquiry discloses the commission of violation of human rights or negligence in the prevention of violation of human rights or abetment thereof by a public servant, it may recommend to the concerned Government or authority—

(i) to make payment of compensation or damages to the complainant or to the victim or the members of his family as the Commission may consider necessary;

(ii) to initiate proceedings for prosecution or such other suitable action as the Commission may deem fit against the concerned person or persons;

(iii) to take such further action as it may think fit;

(b) approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;

(c) recommend to the concerned Government or authority at any stage of the inquiry for the grant of such immediate interim relief to the victim or the members of his family as the Commission may consider necessary;

(d) subject to the provisions of clause (e), provide a copy of the inquiry report to the petitioner or his representative;

(e) the Commission shall send a copy of its inquiry report together with its recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission;

(f) the Commission shall publish its inquiry report together with the comments of the concerned Government or authority, if any, and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the Commission.”.

Amendment of  
Section 21.

12. In Section 21 of the principal Act,—

(a) for sub-section (2), the following sub-section shall be substituted, namely:—



“(2) The State Commission shall, with effect from such date as the State Government may by notification specify, consist of—

(a) a Chairperson who has been a Chief Justice of a High Court;

(b) one Member who is, or has been, a Judge of a High Court or District Judge in the State with a minimum of seven years experience as District Judge;

(c) one Member to be appointed from among persons having knowledge of or practical experience in matters relating to human rights.”;

(b) after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) Two or more State Governments may, with the consent of a Chairperson or Member of a State Commission, appoint such Chairperson or, as the case may be, such Member of another State Commission simultaneously if such Chairperson or Member consents to such appointment:

Provided that every appointment made under this sub-section shall be made after obtaining the recommendations of the Committee referred to in sub-section (1) of Section 22 in respect of the State for which a common Chairperson or Member, or both, as the case may be, is to be appointed.”.

13. In Section 22 of the principal Act,—

Amendment of  
Section 22.

(a) in the marginal heading for the words “other Members”, the word “Members” shall be substituted;

(b) in sub-section (1), for the words “other Members”, the word “Members” shall be substituted;

(c) in sub-section (2), for the words “any vacancy in the Committee”, the words, brackets and figure “any vacancy of any Member in the Committee referred to in sub-section (1)” shall be substituted.

14. In Section 23 of the principal Act,—

Amendment of  
Section 23.

(a) for the marginal heading “Removal of a Member of the State Commission”, the marginal heading “Resignation and Removal of Chairperson or a Member of the State Commission” shall be substituted;

(b) for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) The Chairperson or a Member of a State Commission may, by notice in writing under his hand addressed to the Governor, resign his office.

(1A) Subject to the provisions of sub-section (2), the Chairperson or any Member of the State Commission shall only be removed from his office by order of the President on the ground of proved misbehavior or incapacity after the Supreme Court, on a reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or such Member, as the case may be, ought on any such ground to be removed.”;

(c) in sub-section (2),—

(a) for the word, brackets and figure “sub-section (1)”, the word, brackets, figure and letter “sub-section (1A)” shall be substituted;

(b) for the words “other Member” at both the places where they occur, the word “Member” shall be substituted.

Substitution of new  
Section for  
Section 24.

15. For Section 24 of the principal Act, the following section shall be substituted, namely:—

Term of office of  
Chairperson and  
Members of the  
State Commission.

“24. (1) A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier,

(2) A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of five years:

Provided that no Member shall hold office after he has attained the age of seventy years.

(3) On ceasing to hold office, a Chairperson or a Member shall be ineligible for further employment under the Government of a State or under the Government of India.”.

Substitution of new  
Section for  
Section 26.

16. For Section 26 of the principal Act, the following Section shall be substituted, namely:—

Term and conditions  
of service of  
Chairperson and  
Members of the  
State Commissions.

“26. The salaries and allowances payable to, and other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed by the State Government:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member shall be varied to his disadvantage after his appointment.”.

17. In Section 40 of the principal Act, in sub-section (2), in clause (a), for the word “Members”, the words “Chairperson and Members” shall be substituted. Amendment of Section 40.

18. After Section 40A of the principal Act, the following section shall be inserted, namely:— Insertion of new Section 40B.

“40B. (1) Subject to the provisions of this Act and the rules made thereunder, the Commission may, with the previous approval of the Central Government, by notification, make regulations to carry out the provisions of this Act. Power of Commission to make regulations.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the procedure to be followed by the Commission under sub-section (2) of Section 10;

(b) the returns and statistics to be furnished by the State Commissions;

(c) any other matter which has to be, or may be, specified by regulations.

(3) Every regulation made by the Commission under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.”.

19. In Section 41 of the principal Act, in sub-section (2), in clause (a), for the words “the Members”, the words “the Chairperson and Members” shall be substituted. Amendment of Section 41.

**THE BANKING COMPANIES (ACQUISITION AND TRANSFER  
OF  
UNDERTAKINGS) AND FINANCIAL INSTITUTIONS LAWS  
(AMENDMENT) ACT 2006**

(AS PASSED BY THE HOUSES OF PARLIAMENT)

*further to amend the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, the State Bank of India Act, 1955, the State Bank of India (Subsidiary Banks) Act, 1959, the Deposit Insurance and Credit Guarantee Corporation Act, 1961, the Export-Import Bank of India Act, 1981 and the National Housing Bank Act, 1987.*

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows;—

**CHAPTER I**

PRELIMINARY

1. (1) This Act may be called the Banking Companies (Acquisition and Transfer of Undertakings) and Financial Institutions Laws (Amendment) Act, 2006.

Short title and  
commencement

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

**CHAPTER II**

AMENDMENTS TO THE BANKING COMPANIES (ACQUISITION AND

TRANSFER OF UNDERTAKINGS) ACT, 1970

Amendment of  
section 3.

2. In section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (hereafter in this Chapter referred to as the Bank Nationalisation Act),—

5 of 1970.

(a) in sub-section (2B), for clause (c), the following shall be substituted, namely:—

“(c) such amounts as the Board of Directors of the corresponding new bank may, after consultation with the Reserve Bank and with the previous sanction of the Central Government, raise whether by public issue or preferential allotment or private placement, of equity shares or preference shares in accordance with the procedure as may be prescribed, so, however, that the Central Government shall, at all times hold not less than fifty-one per cent, of the paid-up capital consisting of equity shares of each corresponding new bank:

Provided that the issue of preference shares shall be in accordance with the guidelines framed by the Reserve Bank specifying the class of preference shares, the extent of issue of each class of such preference

shares (whether perpetual or irredeemable or redeemable) and the terms and conditions subject to which, each class of preference shares may be issued,”;

(b) in sub-sections (2BB) and (2BBA), for the words “raised by public issue”, the words “raised by public issue or preferential allotment or private placement” shall be substituted;

(c) in sub-section (2C), for the words “raised by public issue”, the words “raised from public by public issue or preferential allotment or private placement” shall be substituted;

(d) in sub-section (2E), the following provisos shall be inserted, namely:—

“Provided that the shareholder holding any preference share capital in the corresponding new bank shall, in respect of such capital, have a right to vote only on resolutions placed before such corresponding new bank which directly affects the rights attached to his preference shares:

Provided further that no preference shareholder shall be entitled to exercise voting rights in respect of preference shares held by him in excess of one per cent, of the total voting rights of all the shareholders holding preference share capital only.”

Amendment of  
section 9.

**3.** In section 9 of the Bank Nationalisation Act,—

(a) in sub-section (2), after clause (c), the following clause shall be inserted, namely:—

“(ca) the manner in which the excess number of directors shall retire under second proviso to clause (i) of sub-section (3);”;

(b) in sub-section (3),—

(i) in clause (a), for the words “not more than two whole-time directors”, the words “not more than four whole-time directors” shall be substituted;

(ii) for clause (c), the following clause shall be substituted, namely:—

“(c) one director, possessing necessary expertise and experience in matters relating to regulation or supervision of commercial banks, to be nominated by the Central Government on the recommendation of the Reserve Bank;”;

(iii) clause (d) shall be omitted;

(iv) for clause (i), the following shall be substituted, namely:—

“(i) where the capital issued under clause (c) of sub-section (2B) of section 3 is —

(I) not more than sixteen per cent, of the total paid-up capital, one director;

(II) more than sixteen per cent, but not more than thirty-two per cent, of the total paid-up capital, two directors;

(III) more than thirty-two per cent, of the total paid-up capital, three directors,

to be elected by the shareholders, other than the Central Government, from amongst themselves:

Provided that on the assumption of charge after election of any such director under this clause, equal number of directors nominated under clause (h) shall retire in such manner as may be specified in the scheme:

Provided further that in case the number of directors elected, on or before the commencement of the Banking Companies (Acquisition and Transfer of Undertakings) and Financial Institutions Laws (Amendment) Act, 2006, in a corresponding new bank exceed the number of directors specified in sub-clause (I) or sub-clause (II) or sub-clause (III), as the case may be, such excess number of directors elected before such commencement shall retire in such manner as may be specified in the scheme and such directors shall not be entitled to claim any compensation for the premature retirement of their term of office.”;

(c) after sub-section (3A), the following sub-sections shall be inserted, namely:—

“(3AA) Without prejudice to the provisions of sub-section (3A) and notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, no person shall be eligible to be elected as director under clause (i) of sub-section (3) unless he is a person having fit and proper status based upon track record, integrity and such other criteria as the Reserve Bank may notify from time to time in this regard.

(3AB) The Reserve Bank may also specify in the notification issued under sub-section (3AA), the authority to determine the fit and proper status, the manner of such determination, the procedure to be followed for such determination and such other matters as may be considered necessary or incidental thereto”;

(d) in sub-section (3B), for the word, brackets, figure and letter “sub-section (3A)” at both the places where they occur, the words, brackets, figures and letters “sub-sections (3A) and (3AA)” shall be substituted.

4. After section 9 of the Bank Nationalisation Act, the following section shall be inserted, namely:—

Insertion of new section 9A

“9A. (1) If the Reserve Bank is of the opinion that in the interest of banking policy or in the public interest or in the interests of the corresponding new bank or its depositors, it is necessary so to do, it may, from time to time, by order in writing, appoint, with effect from such date as may be specified in the order, one or more persons to hold office as additional directors of the corresponding new bank.

Power of reserve Bank to appoint additional director.

(2) Any person appointed as an additional director in pursuance of this section—

(a) shall hold office during the pleasure of the Reserve Bank and subject thereto for a period not exceeding three years or such further periods not exceeding three years at a time as the Reserve Bank may specify;

(b) shall not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the execution of the duties of his office or in relation thereto; and

(c) shall not be required to hold qualification shares in the corresponding new bank.

(3) For the purpose of reckoning any proportion of the total number of directors of the corresponding new bank, any additional director appointed under this section shall not be taken into account”.

Amendment of  
section 10A

5. In section 10A of the Bank Nationalisation Act,—

(a) in sub-section (2), for the words “shall be entitled to discuss”, the words “shall be entitled to discuss, approve and adopt” shall be substituted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Nothing contained in this section shall apply during the period for which the Board of Directors of a corresponding new bank had been superseded under sub-section (1) of section 18 A:

Provided that the Administrator may, if he considers it appropriate in the interest of the corresponding new bank whose Board of Directors had been superseded, call annual general meeting in accordance with the provisions of this section.”.

Insertion of new  
section 18A.

6. After section 10A of the Bank Nationalisation Act, the following section shall be inserted, namely:—

Transfer of unpaid or  
unclaimed dividend  
to Unpaid Dividend  
Account.

’10B. (1) Where, after the commencement of the Banking Companies (Acquisition and Transfer of Undertakings) and Financial Institutions Laws (Amendment) Act, 2006, a dividend has been declared by a corresponding new bank but has not been paid or claimed within thirty days from the date of declaration, to, or by, any shareholder entitled to the payment of the dividend, the corresponding new bank shall, within seven days from the date of the expiry of such period of thirty days, transfer the total amount of dividend which remains unpaid or unclaimed within the said period of thirty days, to a special account to be called “Unpaid Dividend Account of ...(the name of the corresponding new bank).”.

*Explanation.*—In this sub-section, the expression “dividend which remains unpaid” means any dividend the warrant in respect thereof has not been encashed or which has otherwise not been paid or claimed.

(2) Where the whole or any part of any dividend, declared by a corresponding new bank before the commencement of the Banking Companies (Acquisition and Transfer of Undertakings) and Financial Institutions Laws (Amendment) Act, 2006, remains unpaid at such commencement, the corresponding new bank shall, within a period of six months from such commencement, transfer such unpaid amount to the account referred to in sub-section (1).

(3) Any money transferred to the Unpaid Dividend Account of a corresponding new bank in pursuance of this section which remains unpaid or unclaimed for a period of seven years from the date of such transfer,



shall be transferred by the corresponding new bank to the Investor Education and Protection Fund established under sub-section (1) of section 205C of the Companies Act, 1956.

1 of 1956.

(4) The money transferred under sub-section (3) to the Investor Education and Protection Fund shall be utilised for the purposes and in the manner specified in section 205C of the Companies Act, 1956.’

1 of 1956.

Insertion section  
18A.

**7.** After section 18 of the Bank Nationalisation Act, the following section shall be inserted, namely:—

Supersession of  
Board in certain  
cases.

“18A. (1) Where the Central Government, on the recommendation of the Reserve Bank, is satisfied that in the public interest or for preventing the affairs of any corresponding new bank being conducted in a manner detrimental to the interest of the depositors or the corresponding new bank or for securing the proper management of any corresponding new bank, it is necessary so to do, the Central Government may, for reasons to be recorded in writing, by order, supersede the Board of Directors of such corresponding new bank for a period not exceeding six months as may be specified in the order:

Provided that the period of supersession of the Board of Directors may be extended from time to time, so, however, that the total period shall not exceed twelve months.

(2) The Central Government may, on supersession of the Board of Directors of the corresponding new bank under sub-section (1), appoint, in consultation with the Reserve Bank, for such period as it may determine, an Administrator (not being an officer of the Central Government or a State Government) who has experience in law, finance, banking, economics or accountancy.

(3) The Central Government may issue such directions to the Administrator as it may deem appropriate and the Administrator shall be bound to follow such directions.

(4) Upon making the order of supersession of the Board of Directors of the corresponding new bank, notwithstanding anything contained in this Act,—

(a) the chairman, managing director and other directors shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act or any other law for the time being in force, be exercised and discharged by or on behalf of the Board of Directors of such corresponding new bank, or by a resolution passed in general meeting of such corresponding new bank, shall, until the Board of Directors of such corresponding new bank is reconstituted, be exercised and discharged by the Administrator appointed by the Central Government under sub-section (2):

Provided that the power exercised by the Administrator shall be valid notwithstanding that such power is exercisable by a resolution passed in the general meeting of the corresponding new bank.

(5) The Central Government may constitute, in consultation with the Reserve Bank, a committee of three or more persons who have experience

in law, finance, banking, economics or accountancy to assist the Administrator in the discharge of his duties.

(6) The committee shall meet at such times and places and observe such rules of procedure as may be specified by the Central Government.

(7) The salary and allowances payable to the Administrator and the members of the committee constituted under sub-section (5) by the Central Government shall be such as may be specified by the Central Government and be payable by the concerned corresponding new bank.

(8) On and before the expiration of two months before expiry of the period of supersession of the Board of Directors as specified in the order issued under sub-section (1), the Administrator of the corresponding new bank, shall call the general meeting of the corresponding new bank to elect new directors and reconstitute its Board of Directors.

(9) Notwithstanding anything contained in any other law or in any contract, the memorandum or articles of association, no person shall be entitled to claim any compensation for the loss or termination of his office.

(10) The Administrator appointed under sub-section (2) shall vacate office immediately after the Board of Directors of the corresponding new bank has been reconstituted."

### CHAPTER III

#### AMENDMENTS TO THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1980

Amendment of  
section 9.

**8.** In section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 [hereafter in this Chapter referred to as the Bank (Second) Nationalisation Act],—

40 of 1980.

(a) in sub-section (2B), for clause (c), the following shall be substituted, namely:—

"(c) such amounts as the Board of Directors of the corresponding new bank may, after consultation with the Reserve Bank and with the previous sanction of the Central Government, raise whether by public issue or preferential allotment or private placement, of equity shares or preference shares in accordance with the procedure as may be prescribed, so, however, that the Central Government shall, at all times hold not less than fifty-one per cent, of the paid-up capital consisting of equity shares of each corresponding new bank:

Provided that the issue of preference shares shall be in accordance with the guidelines framed by the Reserve Bank specifying the class of preference shares, the extent of issue of each class of such preference shares (whether perpetual or irredeemable or redeemable) and the terms and conditions subject to which, each class of preference shares may be issued.";

(b) in sub-sections (2BB) and (2BBA), for the words "raised by public issue", the words "raised by public issue or preferential allotment or private placement" shall be substituted;

(c) in sub-section (2C), for the words "raised by public issue", the words "raised from public by public issue or preferential allotment or

private placement” shall be substituted;

(d) in sub-section (2E), the following provisos shall be inserted, namely:—

“Provided that the shareholder holding any preference share capital in the corresponding new bank shall, in respect of such capital, have a right to vote only on resolutions placed before such corresponding new bank which directly affects the rights attached to his preference shares:

Provided further that no preference shareholder shall be entitled to exercise voting rights in respect of preference shares held by him in excess of one per cent, of the total voting rights of all the shareholders holding preference share capital only.”.

Amendment of  
section 9.

9. In section 9 of the Bank (Second) Nationalisation Act,—

(a) in sub-section (2), after clause (c), the following clause shall be inserted, namely:—

“(ca) the manner in which the excess number of directors shall retire under the second proviso to clause (i) of sub-section (3);”;

(b) in sub-section (3),—

(i) in clause (a), for the words “not more than two whole-time directors”, the words “not more than four whole-time directors” shall be substituted;

(ii) for clause (c), the following clause shall be substituted, namely:—

“(c) one director, possessing necessary expertise and experience in matters relating to regulation or supervision of commercial banks, to be nominated by the Central Government on the recommendation of the Reserve Bank;”;

(iii) clause (d) shall be omitted;

(iv) for clause (i), the following shall be substituted, namely:—

“(i) where the capital issued under clause (c) of sub-section (2B) of section 3 is —

(I) not more than sixteen per cent, of the total paid-up capital, one director;

(II) more than sixteen per cent, but not more than thirty-two per cent, of the total paid-up capital, two directors;

(III) more than thirty-two per cent, of the total paid-up capital, three directors, to be elected by the shareholders, other than the Central Government, from amongst themselves:

Provided that on the assumption of charge after election of any such director under this clause, equal number of directors nominated under clause (h) shall retire in such manner as may be specified in the scheme:

Provided further that in case the number of directors elected, on or before the commencement of the Banking Companies (Acquisition and

Transfer of Undertakings) and Financial Institutions Laws (Amendment) Act, 2006, in a corresponding new bank exceed the number of directors specified in sub-clause (I) or sub-clause (II) or sub-clause (III), as the case may be, such excess number of directors elected before such commencement shall retire in such manner as may be specified in the scheme and such directors shall not be entitled to claim any compensation for the premature retirement of their term of office.”;

(c) after sub-section (3A), the following sub-sections shall be inserted, namely:—

“(3AA) Without prejudice to the provisions of sub-section (3A) and notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, no person shall be eligible to be elected as director under clause (i) of sub-section (3) unless he is a person having fit and proper status based upon track record, integrity and such other criteria as the Reserve Bank may notify from time to time in this regard.

(3AB) The Reserve Bank may also specify in the notification issued under sub-section (3AA), the authority to determine the fit and proper status, the manner of such determination, the procedure to be followed for such determination and such other matters as may be considered necessary or incidental thereto.”;

(d) in sub-section (3B), for the word, brackets, figure and letter “sub-section (3A)” at both the places where they occur, the words, brackets, figures and letters “sub-section (3A) and sub-section (3AA)” shall be substituted.

**10.** After section 9 of the Bank (Second) Nationalisation Act, the following section shall be inserted, namely:—

Insertion of new section 9A

“9 A. (1) If the Reserve Bank is of the opinion that in the interest of banking policy or in the public interest or in the interests of the corresponding new bank or its depositors, it is necessary so to do, it may, from time to time, by order in writing, appoint, with effect from such date as may be specified in the order, one or more persons to hold office as additional directors of the corresponding new bank.

Power of Reserve Bank to appoint additional director.

(2) Any person appointed as an additional director in pursuance of this section—

(a) shall hold office during the pleasure of the Reserve Bank and subject thereto for a period not exceeding three years or such further periods not exceeding three years at a time as the Reserve Bank may specify;

(b) shall not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the execution of the duties of his office or in relation thereto; and

(c) shall not be required to hold qualification shares in the corresponding new bank.

(3) For the purpose of reckoning any proportion of the total number of directors of the corresponding new bank, any additional director appointed under this section shall not be taken into account.”.

Amendment of  
section 10A.

**11.** In section 10A of the Bank (Second) Nationalisation Act,—

(a) in sub-section (2), for the words “shall be entitled to discuss”, the words “shall be entitled to discuss, approve and adopt” shall be substituted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Nothing contained in this section shall apply during the period for which the Board of Directors of a corresponding new bank had been superseded under sub-section (1) of section 18A:

Provided that the Administrator may, if he considers it appropriate in the interest of the corresponding new bank whose Board of Directors had been superseded, call annual general meeting in accordance with the provisions of this section.”.

Insertion new  
section 10B.

**12.** After section 10A of the Bank (Second) Nationalisation Act, the following section shall be inserted, namely:—

Transfer of unpaid or  
unclaimed dividend  
to Unpaid Dividend  
Account.

‘10B. (1) Where, after the commencement of the Banking Companies (Acquisition and Transfer of Undertakings) and Financial Institutions Laws (Amendment) Act, 2006, a dividend has been declared by a corresponding new bank but has not been paid or claimed within thirty days from the date of declaration, to, or by, any shareholder entitled to the payment of the dividend, the corresponding new bank shall, within seven days from the date of the expiry of such period of thirty days, transfer the total amount of dividend which remains unpaid or unclaimed within the said period of thirty days, to a special account to be called “Unpaid Dividend Account of... (the name of the corresponding new bank).

*Explanation.*—In this sub-section, the expression “dividend which remains unpaid” means any dividend the warrant in respect thereof has not been encashed or which has otherwise not been paid or claimed.

(2) Where the whole or any part of any dividend, declared by a corresponding new bank before the commencement of the Banking Companies (Acquisition and Transfer of Undertakings) and Financial Institutions Laws (Amendment) Act, 2006, remains unpaid at such commencement, the corresponding new bank shall, within a period of six months from such commencement, transfer such unpaid amount to the account referred to in sub-section (1).

(3) Any money transferred to the Unpaid Dividend Account of a corresponding new bank in pursuance of this section which remains unpaid or unclaimed for a period of seven years from the date of such transfer, shall be transferred by the corresponding new bank to the Investor Education and Protection Fund established under sub-section (1) of section 205C of the Companies Act, 1956.

1 of 1956.

(4) The money transferred under sub-section (3) to the Investor Education and Protection Fund shall be utilised for the purposes and in the manner specified in section 205C of the Companies Act, 1956. ‘.

1 of 1956.

**13.** After section 18 of the Bank (Second) Nationalisation Act, the following section shall be inserted, namely:—

Insertion of new  
section 18A.

“18A. (1) Where the Central Government, on the recommendation of the Reserve Bank, is satisfied that in the public interest or for preventing the affairs of any corresponding new bank being conducted in a manner detrimental to the interest of the depositors or the corresponding new bank or for securing the proper management of any corresponding new bank, it is necessary so to do, the Central Government may, for reasons to be recorded in writing, by order, supersede the Board of Directors of such corresponding new bank for a period not exceeding six months as may be specified in the order:

Supersession of Board in certain cases.

Provided that the period of supersession of the Board of Directors may be extended from time to time, so, however, that the total period shall not exceed twelve months.

(2) The Central Government may, on supersession of the Board of Directors of the corresponding new bank under sub-section (1), appoint, in consultation with the Reserve Bank, for such period as it may determine, an Administrator (not being an officer of the Central Government or a State Government) who has experience in law, finance, banking, economics or accountancy.

(3) The Central Government may issue such directions to the Administrator as it may deem appropriate and the Administrator shall be bound to follow such directions.

(4) Upon making the order of supersession of the Board of Directors of the corresponding new bank, notwithstanding anything contained in this Act,—

(a) the chairman, managing director and other directors shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act or any other law for the time being in force, be exercised and discharged by or on behalf of the Board of Directors of such corresponding new bank, or by a resolution passed in general meeting of such corresponding new bank, shall, until the Board of Directors of such corresponding new bank is reconstituted, be exercised and discharged by the Administrator appointed by the Central Government under sub-section (2):

Provided that the power exercised by the Administrator shall be valid notwithstanding that such power is exercisable by a resolution passed in the general meeting of the corresponding new bank.

(5) The Central Government may constitute, in consultation with the Reserve Bank, a committee of three or more persons who have experience in law, finance, banking, economics or accountancy to assist the Administrator in the discharge of his duties.

(6) The committee shall meet at such times and places and observe such rules of procedure as may be specified by the Central Government.

(7) The salary and allowances payable to the Administrator and the members of the committee constituted under sub-section (5) by the Central Government shall be such as may be specified by the Central Government and be payable by the concerned corresponding new bank.



(8) On and before the expiration of two months before expiry of the period of supersession of the Board of Directors as specified in the order issued under sub-section (1), the Administrator of the corresponding new bank, shall call the general meeting of the corresponding new bank to elect new directors and reconstitute its Board of Directors.

(9) Notwithstanding anything contained in any other law or in any contract, the memorandum or articles of association, no person shall be entitled to claim any compensation for the loss or termination of his office.

(10) The Administrator appointed under sub-section (2) shall vacate office immediately after the Board of Directors of the corresponding new bank has been reconstituted.”.

#### CHAPTER IV

##### AMENDMENTS TO THE STATE BANK OF INDIA ACT, 1955

- Amendment of section 20. **14.** In section 20 of the State Bank of India Act, 1955 (hereafter in this Chapter referred to as the State Bank Act), in sub-section (3), the words “and thereafter until his successor shall have been duly elected” shall be omitted.
- Amendment of section 21A. **15.** In section 21A of the State Bank Act, in sub-section (1), the words “and thereafter until his successor has been duly nominated” shall be omitted.

#### CHAPTER V

##### AMENDMENTS TO THE STATE BANK OF INDIA (SUBSIDIARY BANKS) ACT, 1959

- Amendment of section 26 of Act 38 of 1959. **16.** In section 26 of the State Bank of India (Subsidiary Banks) Act, 1959,—
- (a) in sub-section (2), the words “and thereafter until his successor is duly elected” shall be omitted;
- (b) in sub-section (2A), for the words “and thereafter until his successor shall have been duly nominated or appointed”, the words “and thereafter until his successor shall have been duly appointed” shall be substituted.

#### CHAPTER VI

##### AMENDMENTS TO CERTAIN OTHER ENACTMENTS

- Amendment of section 6 of Act 47 of 1961. **17.** In section 6 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, in sub-section (2), in clause (ii), the words “and thereafter until his successor assumes office” shall be omitted.
- Amendment of section 6 of Act 28 of 1981. **18.** In section 6 of the Export-Import Bank of India Act, 1981, in sub-section (6), the words “and thereafter until his successor enters upon his office” shall be omitted.
- Amendment of section 7 of Act 53 of 1987. **19.** In section 7 of the National Housing Bank Act, 1987, in sub-section (2), the proviso shall be omitted.

**A. K. SANGMA,**  
Under Secretary to the Government of Meghalaya  
Law (B) Department.